

REMARKS

Favorable consideration of this Application as presently amended and in light of the following discussion is respectfully requested. After entry of the foregoing Amendment, Claims 1-17 are pending in the present Application. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 8 and 14 stand rejected under 35 U.S.C. § 112; Claims 1-6, 9-13, 16 and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bechtold et al. (WO 99/11716, hereinafter Bechtold); Claims 5-8 and 12-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bechtold and further in view of Carlough (US 5,873,912). The applicant will refer to US 6,312,583 for the discussion of Bechtold because US 6,312,583 is the English counterpart and the national stage of WO 99/11716. The applicant respectfully traverses the rejections.

REJECTION UNDER 35 U.S.C. § 112

The outstanding Official Action has rejected Claims 8 and 14 under 35 U.S.C. § 112 as failing to comply with the written description requirement. Applicant respectfully directs the examiner to a typographical error, wherein Claim 14 was rejected rather than Claim 15 because Claim 14 does not contain a limitation for cellulose blends or polyamide blends.

Applicant believes claims 8 and 15 are presently in condition for allowance; however, in order to expedite prosecution, Applicant has currently amended Claims 8 and 15. The claims as currently amended have support in the specification at, for example, page 7 lines 7-10.

REJECTIONS UNDER 35 U.S.C. § 103

Rejection under §103(a) as being unpatentable over Bechtold

The outstanding Official Action has rejected Claims 1-6, 9-13, 16 and 17 under 35 U.S.C. § 103 as being unpatentable over Bechtold.

As the Examiner correctly recognizes at page 4 of the Office Action, Bechtold does not teach dyeing fiber materials with the methods of the present invention. Bechtold provides a process for reducing sulfur dye which results in a product which can be used for dyeing without any (additional) reduction during dyeing. Bechtold reduces first and dyeing is performed subsequently. Such dyeing can be performed in the catholyte reservoir of the reduction step; however, the reduction equipment is not operative during dyeing.

A person of ordinary skill in the art would have known that the process for reducing sulfur dye comprising production of a certain amount of reduction equivalents (as described by Bechtold) is not comparable with a process which requires maintaining stable conditions for dyeing. In other words, the Bechtold process cannot be simply modified to arrive at the claimed dyeing process because Bechtold utilizes a completely different approach to dyeing and in fact would be ineffective in a dyeing process. Accordingly, this rejection should be withdrawn.

Rejection under §103(a) as being unpatentable over Bechtold in view of Carlough

The outstanding Official Action has rejected Claims 5-8 and 12-15 under 35 U.S.C. § 103 as being unpatentable over Bechtold in view of Carlough.

Carlough teaches an exhaust dyeing process with a sulfur dye which does not involve any electrochemical means. All reduction is done chemically by non-sulphide reducing agents (see column 1, lines 59-60). In order to avoid oxidation of reduced sulfur dye, the process is performed in a closed vessel in an atmosphere of reduced oxygen level (see column 1, lines 60-61).

The goal of the claimed process, however, is to provide stable dyeing conditions without using chemical reducing agents and without the need to provide an atmosphere of reduced oxygen level. Note that chemical reducing agents are expensive and result in water pollution, and a closed vessel with a reduced oxygen level requires expensive equipment.

Accordingly, a combination of Bechtold and Carlough – assuming arguendo that the combination is even feasible – does not render the present invention obvious, and this rejection should be withdrawn.

The Examiner must consider the references as a whole, In re Yates, 211 USPQ 1149 (CCPA 1981). The Examiner cannot selectively pick and choose from the disclosed multitude of parameters without any direction as to the particular one selection of the reference without proper motivation. The mere fact that the prior art may be modified to reflect features of the claimed invention does not make modification, and hence claimed invention, obvious unless the prior art suggested the desirability of such modification (In re Gordon, 733 F.2d 900, 902 (Fed. Cir. 1984); In re Baird, 29 USPQ 2d 1550 (CAFC 1994); In re Fritch, 23 USPQ 2nd. 1780 (Fed. Cir. 1992)). In re Gorman, 933 F.2d 982, 987 (Fed. Cir. 1991) (in a determination under 35 U.S.C. § 103 it is impermissible to simply engage in a hindsight reconstruction of the claimed

invention; the references themselves must provide some teaching whereby the applicant's combination would have been obvious); In re Dow Chemical Co., 837 F.2d 469,473 (Fed. Cir. 1988) (under 35 U.S.C. § 103, both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure). Applicant disagrees with the Examiner why one skilled in the art with the knowledge of the references would selectively modify the references in order to arrive at the claimed invention.

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application is patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Applicant believes no fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 05579-00338-US from which the undersigned is authorized to draw.

Respectfully submitted,

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